



An
Bord
Pleanála

Inspector's Report ABP-301635-18.

Development	Demolish existing house and construct 30 houses.
Location	Innishannon, Drumnigh Road, Portmarnock, Co. Dublin.
Planning Authority	Fingal County Council.
Planning Authority Reg. Ref.	F17A/0556.
Applicant(s)	Mybalroan Limited.
Type of Application	Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party v permission.
Appellant(s)	Mark Beggs.
Observer(s)	DAA Mike Nagle Thomas Breen & Jason Larkin.
Date of Site Inspection	06/12/2018.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The subject site is located within the defined development area of Portmarnock, approximately 12km to the north of Dublin City Centre, and approximately 400m to the west of the train station. Access to the site is off the Drumnigh Road (the R124). To the south and east of the site is the residential estate of 'Drinnigh Woods' and to the north, is 'Dunkeld' which is a large detached house on a generous site.
- 1.2. While there is extensive residential development in the vicinity of the site, to the west of the site and further north, there are a number of one off houses. This, together with the set back of the residential estates, gives an almost semi-rural character to this area of Co. Dublin. The site is currently screened from view from the public road due to the treeline and hedgerows along the borders of the site, and within the site. The existing access to the site is located to the south western corner of the site and sight distances are quite restricted, particularly in a northerly direction. The site has a stated area of 1.48ha.

2.0 Proposed Development

- 2.1. Permission is sought for a development on a site of c.1.48 ha. The development will consist of the demolition of the existing two-storey dwelling house and associated single-storey outbuildings (c. 260m²) and the construction of an infill residential scheme comprising 30 no. terraced and semi-detached, 3-storey dwellings (4 no. 3-bedroom dwellings, 6 no. 4-bedroom dwellings & 20 no. 5-bedroom dwellings) ranging in size from 166m² to 189m², each with a terrace to the rear at 1st or 2nd floor level and each with 2 no. car parking spaces. Access to the site will be via the existing entrance off the Drumnigh Road (R124), which will be widened and realigned to facilitate the proposed development. The development will include communal open space (c. 1,480 m²), piped infrastructure and ducting, changes in level, internal roads and pathways, site landscaping, boundary treatments and all associated site development and excavation works above and below ground, all at Innishannon, Drumnigh Road, Portmarnock, Co. Dublin.

2.2. The planning application is accompanied by the following:

- Planning application, plans and drawings including architectural, engineering, landscape and tree survey, public notices and relevant fee
- Planning Report
- Civil Engineering Infrastructure Report
- Archaeological Assessment
- Appropriate Assessment Screening Report
- Tree Survey Report
- Design Statement Report
- Landscape Report
- Letter of Consent from Crosswinds Cottage Limited to connect to foul sewer and surface water systems
- Part V validation

2.3. Following a request for further information, the following information was submitted to Fingal County Council:

- Boundary line has been adjusted to ensure no encroachment occurs to the property boundaries of Drumnigh Wood to the east.
- Following discussions with the owners of Dunkeld, it was not possible to find agreement for a combined site development approach.
- Amendments are made to proposed dormer windows in house type I.
- Water Service details submitted
- Updated Arborist Report submitted.

3.0 **Planning Authority Decision**

3.1. **Decision**

The Planning Authority decided to grant permission for the proposed development, subject to 30 conditions, including:

- 2: permission is for 29 houses
- 3: revisions to the site layout.
- 16: Transportation Planning Section requirements including
 - (a) provide a future vehicular link to lands to the west.
- 17: Parks & Green Infrastructure Department requirements
- 26: Tree Bond of €15,000 to be lodge with the Council for a period of 3 years.
- 28: Bond
- 29: Financial contribution of €6,750.00 in lieu of open space provision shortfall of 115m².
- 30: Development contribution of €437,864.00.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

The initial planning report concludes that the proposed development would replace an existing derelict dwelling on a large site with a residential development which would be a more appropriate and efficient use of the lands and as such, would be consistent with the proper planning and sustainable development of the area. Further information is required relating to a number of issues.

Following receipt of the response to the FI request, the Planning Officer considered that all issues raised in the FI request had been adequately dealt with or can be dealt with by way of condition. The recommendation of the Planning Officer to grant permission for the proposed development forms the basis of the Planning Authority's decision to grant subject to conditions.

3.2.2. Other Technical Reports:

Public Lighting Section: Comments noted and can be subject to conditions of permission.

Archaeologist Report: Archaeological pre-testing to be carried out in liaison with the National Monuments Service of the Department of Culture, Heritage and the Gaeltacht.

Water Services Section: No objection subject to conditions.

Following receipt of the response to the further information request, no objection, subject to conditions.

Transportation Section: No objection subject to conditions.

Following receipt of the response to the further information request, the report notes that 70m sight distance is acceptable and that the internal road to be taken in charge to be extended to the western boundary to provide access to these lands. One house to be omitted to accommodate this road extension. No objection, subject to conditions.

Conservation Office: The subject site is located within the Old Portmarnock ACA which includes a number of historic houses and cottages which have been constructed using Portmarnock brick, including Dunkeld. The mature boundary contributes to the character of the area.

While there is no objection to the replacement of Innishannon, it is important that the development retains as much as possible of the character formed by the natural boundary treatments and existing tree lines. The removal of the road boundary will significantly impact on the character of the ACA and it is requested that the landscape plan be revisited to examine the extent of the tree removal and to include replacement trees along or as close as possible to the road. The plan should also consider supplemental tree planting along the boundary with Dunkeld.

Following receipt of the response to the further information request, the report submits that the retention of the roadside boundary, or its replacement is important in terms of its contribution to the character of the ACA. It is submitted that subject to the Parks Superintendent's confirmation of proposed landscaping plan and species, the matter has been satisfactorily addressed.

Parks Division: Following receipt of the response to the further information request, the report raises a number of concerns particularly in relation to the extensive removal of tree lines and hedgerows. It is noted that hedgerow 4 and tree belts 1 and 2 appear to be historic boundaries linked to the adjoining Dunkeld. Objective NH27 and DMS 77 of the County Development Plan seeks to protect such features which are of amenity and biodiversity value and/or contribute to landscape character.

The report further considers that the calculation of public open space appears to include other features including roads, footpaths etc. The acceptable public open space is 2,485m². The development requires 2,600m² and therefore there is a shortfall in the open space provision for the development.

3.2.3. Prescribed Bodies:

Dublin Airport Authority: Notes that the subject site is located within the Outer Public Safety Zone. Further information is required.

Department of Culture, Heritage and the Gaeltacht: Pre-development testing to be carried out. Condition recommended.

Irish Water: No objection subject to conditions.

Following receipt of the response to the further information request, the report requires that proposed works permitted under F16A/0607 to be implemented in full prior to occupation of any units. No objection, subject to conditions.

3.2.4. Third Party Submissions:

There are 7 no. third party submissions in relation to the proposed development. The issues raised are summarised as follows:

Mr. David Murphy:

- The local area has reached saturation point with regards to the volumes of traffic on the country roads.
- 1000s of units have been permitted in the area without upgrades to the associated roads which are too small, bendy and dangerous.
- Roads should be made safe for children and adults for cycling and walking first.

Photos enclosed.

Gavin Buggy Architects:

This submission is made on behalf of the owners of 'Dunkeld'.

- No objection in principle to the development as long as it's designed in a sustainable and progressive manner, and taking the adjoining lands into consideration.

- Incorrect boundary line and a number of trees within Dunkeld's boundary may be affected.
- F17A/0474 was refused on the grounds that it would set a precedent for other developments in the vicinity and that it was crucial to foster a 'comprehensive design approach' and 'level of coherence with existing and future development for lands to south and east'. It is requested that the PA seek to ensure this requirement for the subject development site.
- The sustainable development of both sites should not be obstructed or undermined by the inclusion of an access point which is incapable of serving both parcels of land.
- The provision of public open space restricts or limits the potential to access Dunkeld's land via the proposed development.
- A singular access point to provide development over both sites should be explored.
- The application does not provide clarity in relation to how Dunkeld House will be accessed in the future.

Following receipt of the response to the further information request, a further objection was submitted noting that the issues raised in items 2 and 3 of the PAs FI request have not been addressed in any meaningful way by the applicant. It is further submitted that there has been no discussion or design work between the owners of Dunkeld and the applicant. It is further submitted that the relocation of Dunkeld's gates and brick piers involves their movement to a position outside the red line boundary. No details have been provided as to the specification and detail design of this relocation have been provided.

Barry & Paula Heary:

- Object to the removal of hedgerow 3 on the plans to the rear of their property.
- The Arborial report requires only the removal of brambles and trimming to encourage future growth.
- Object to the erection of 3 storey houses in an area where there are mainly two storey houses.

- The terrace on the 2nd floor will result in overlooking and overshadowing, impinging on privacy.
- The layout will give easy access to the rear of existing houses – security issues.
- Issues raised with proposals to connect to the sewerage system maintained by Drumnigh Wood residents.

Arthur O’Kelly & Michelle Allen:

- Objects to the removal of hedgerow no. 3 on the plans which is of significant environmental and aesthetic value.
- Issues in relation to the proposed connection to the sewerage system which is a private system.
- Cost of maintaining the system is incurred by the residents of Drumnigh Wood. If Fingal Co. Co. is to take the site in hand, confirmation should be provided that the maintenance costs would then transfer to Fingal Co. Co.

Doyle Kent Planning Partnership Ltd:

This submission is made on behalf of Mr. Mike Nagle:

- Boundary issues.
- Tree and hedge protection along the eastern boundary which provides amenity and contributes to the biodiversity of the area.
- Proposal seeks to remove fine tree specimens which could be retained subject to a minor adjustment to the proposed layout.
- Issues with drainage.
- Road safety issues.

Barbara Kearney:

- Roads & traffic issues

Stephen Reid:

- Lack of privacy from public common areas.
- Security issues

- Boundary issues
- 2nd floor terraces with compromise privacy.
- Street lighting will affect privacy and expose the rear of property to excessive light.
- Sewerage issues.

4.0 Planning History

4.1. The following is the relevant planning history pertaining to the subject site:

ABP ref PL06F.209153 (PA ref F03A/1699): Permission granted on appeal for the construction of a house, biocycle effluent treatment unit and a new vehicular entrance. Conditions of note include

2. The location and dimensions of the proposed recessed entrance and associated road improvements and boundary treatment, shall generally be as shown in Drawing Number (02.19)-AO2, received by An Bord Pleanála on the 7th day of October, 2004. Details in this regard shall be submitted to the planning authority for agreement prior to commencement of development.

Reason: In the interest of traffic safety.

9. The existing treeline hedge along the Drumnigh Road frontage of the site shall be retained, except to facilitate entrance onto the site as proposed.

Reason: In the interest of visual amenity.

10. All existing boundary hedgerows shall be retained and reinforced with additional planting of species native to the area. All new planting on site shall be carried out within the first planting season after the commencement of development and permanently retained thereafter.

Reason: In the interest of visual amenity.

ABP ref PL06F.216511 (PA ref F05A/1693): Permission refused on appeal for the demolition of existing dwelling house and associated outbuildings and construction of 19 houses, new connection to public foul and surface water mains, new entrance

gates and walls along road frontage, new entrance gates and walls along road frontage to neighbour's property, all public open space and landscaping and associated site works. The reasons for refusal by the Board were as follows:

1. The proposed access for 19 dwellings would endanger public safety by reason of traffic hazard because the site is located alongside the busy (R132) in close proximity to a number of bends, at a point where a general speed limit of 60km/h applies and where there is restricted visibility. It is considered that the traffic turning movements generated by the proposed development would interfere with the safety and free flow of traffic on the public road. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It is considered that the proposed development lacks adequate public open space to serve the needs of future occupants and would, therefore, result in a substandard form of development contrary to the proper planning and sustainable development of the area.

4.2. The following is the relevant planning history relating to Dunkeld, and lands to the north of the site:

ABP ref PL06F.227834 (PA ref F07A/0771): Permission refused on appeal for the construction of a new two storey detached house and associated site works for the following reason:

1. Having regard to the location of the appeal site on a road which is substandard in terms of width and horizontal alignment, at a point where there is a continuous white line in place and which is characterised by significant volumes of traffic it is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on this substandard road at a point where sightlines are restricted in both the northerly and southerly directions.

PA ref F17A/0474: Permission refused for the construction of 2 houses for the following reasons:

1. The development would constitute haphazard and piecemeal development and conflict with Objective DMS39 of the Development Plan which seeks to protect the character of existing residential areas that are subject to infill or backland development.
 2. The site is located within an ACA and the proposed removal of the mature boundaries and treelines development would contravene objectives CH32, DMS39 and NH27 of the plan.
 3. The development would set an undesirable precedent
- 4.3. The lands to the south and east of the site comprise Drumnigh Woods and there is extensive planning history relating to same as follows:

ABP ref PL06F.123036 (PA ref F00A/1114): Permission refused for residential development for 136 residential units, creche / leisure facility and new access road. Proposal refused for the following reasons:

1. deficient road network
2. deficient public open space provision

PA ref F00A/1461: Permission granted for a residential development of 20 houses.

PA ref F04A/1089: Permission granted for residential development of 91 houses.

PA ref F16A/0607: Permission granted to upgrade the existing foul sewerage pumping station.

- 4.4. Further south of Drumnigh Woods, planning permission has been granted for a significant residential development
- 4.5. A number of pre-planning meetings were held between the applicant and the local authority prior to the submission of the application, during 2014, 2015 and 2016.

5.0 Policy Context

5.1. National Policy & Guidance:

- Urban Design Manual – A Best Practice Guide (DoEHLG, 2009).
- Design Manual for Urban Roads and Streets (DoEHLG, 2013).
- Sustainable Residential Development in Urban Areas (DoEHLG, 2009).

5.2. Development Plan

- 5.2.1. The site is zoned RS – Residential where it is the stated objective of the zoning ‘to provide for residential development and protect and improve residential amenity.’ The lands directly across the road from the site are zoned GB, greenbelt where it is the stated objective of the zoning ‘to protect and provide for a Greenbelt.’

The Fingal County Development Plan, 2017-2023 is the relevant policy document pertaining to the subject site and includes a number of policies and objectives which are relevant, including those relating to core strategy, residential development and development standards, water services, roads and transport, green infrastructure and protected structures. Chapter 3 of the Plan provides guidance in terms of infill sites.

- 5.2.2. Chapter 4 of the Development Plan provides for a Development Strategy for urban areas. The strategy for Portmarnock is to ‘consolidate, define and enhance the existing urban form, encouraging more intensive commercial development within the central areas of the town while providing enhanced linkages to lands at South Portmarnock adjacent to the rail line.’
- 5.2.3. Part of the site is located within the Inner Airport Noise Zone for Dublin Airport. This area is located along the public road and comprises the entrance to the site and part of the proposed open space area. Objective DA07 is relevant.
- 5.2.4. The front of the site, along the Drumnigh Road, is located within the Old Portmarnock / Drumnigh Road Architectural Conservation Area.

5.2.5. Chapter 12 of the Plan deals with Development Management Standards with section 12.4 relating to

5.3. **Natural Heritage Designations**

The site is not located within any designated site. The closest European Site is the Baldoyle Bay SAC, Site Code 000199 and SPA, Site Code 004016, located approximately 700m to the east.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

This is a third party appeal by Mr. Mark Beggs against the decision of Fingal County Council to grant permission for the proposed development. The appeal is summarised as follows:

- Condition 3(a) and the revised road layout is not conducive to the successful redevelopment of the lands at Dunkeld.
- The road layout as condition is not in the preferred location.
- The layout will result in the appellant being beholden to an adjoining owner with no binding or definitive legal agreement such that the lands cannot be developed without the consent of a third party.
- The applicant has no interest in co-ordinating with the lands at Dunkeld.
- An access parallel to Drumnigh Road would be much better and have no impact on any mature trees.
- The land ownership boundary is incorrect.
- There is no provision for a safe public footpath on the boundary at Dunkeld.
- Inadequate sight lines at the access.
- No information as to how the gates at Dunkeld are to be demolished and rebuilt.

- Objects to the inconsistency of decision making with respect to the proposed development and the refused permission at Dunkeld

6.2. Applicant Response

The applicant has responded to the third party appeal. The submission is summarised as follows:

- It is considered that the appeal is vexatious and it is requested that the Board dismiss it.
- In terms of the shared road access issue, it is submitted that the appellants agent has provided no evidence to support claims that the revised road layout will seriously hamper the successful redevelopment of the lands at Dunkeld.
- Evidence of efforts to discuss issues raised in the FI is submitted.
- The applicant has made every reasonable effort to accommodate the adjoining landowner and no further concession could reasonably be asked of the applicant.
- It is requested that the Board grant permission for the development as proposed without the omission of the house, given the limited development potential of the Dunkeld lands, by reference to the recent refusal of planning permission for 2 houses.
- The issue of landownership is unsubstantiated.
- A footpath is indicated within the subject site at the western boundary up to the entrance to the Dunkeld site. To extend it further north would require the removal of mature trees. The loss of these trees were cited as a reason for refusal for the development on the Dunkeld site.
- In terms of sight distances at the entrance, these have been provided on the submitted Civil Engineering drawings, providing for 70m in both directions. The issue raised in relation to the relocation of the gates at the entrance to Dunkeld are minor in nature and are not material to the assessment of this case.

- In response to the matter of inconsistency of decision making, the first party submits that each application needs to be considered on their merits. Fundamental issues arose in terms of the scale of the development proposed on adjacent lands and the applicant did not appeal the refusal of permission. It is requested that the Board uphold the decision of the Planning Authority and issue a favourable decision.

6.3. Planning Authority Response

The Planning Authority has responded to the third party appeal. The submission notes the content of the appeal and refers to the planning reports associated with both F17A/0556 (current file) and F17A/0474 (Dunkeld site). The response is summarised as follows:

- Item 2 of the FI request reiterated the same concerns as raised in the assessment of F17A/0474. It is noted that the response did not adequately address the concerns raised.
- Following an assessment of the proposed development, being cognisant of the planning history on the adjacent site, conditions 3(a) and Condition 16(a) and (b) are included in the interests of the proper planning and sustainable development of the area providing for a comprehensive development of both sites, resulting in the retention of a greater part of the existing tree line and preventing the need for multiple entrances onto the public road.
- It is requested that the decision of the PA be upheld and that conditions 26, 28, 29 and 30 are included in the Boards decision.

6.4. Observations

There are three observers noted in relation to the proposed development as follows:

- 6.4.1. Thomas Breen & Jason Larkin on behalf of Drumnigh Wood Residents Association. The submission is summarised as follows:

- Seeking leave to appeal

- The development is proceeding on the basis that consent has been given to provide sewage connections to the existing network in Drumnigh Wood. The Residents Association contest the authority of Crosswinds Cottage Ltd to provide said consent.
- Concern raised with any impact the proposed development would have in adding an additional burden on existing sewage network in Drumnigh Wood, where there are constant issues with foul smells.
- A proper environmental impact assessment needs to be conducted on the sewage system before any consultation on additional access can be considered.

6.4.2. Mr. Mike Nagle:

- Issues in terms of connecting to the sewage system network in Drumnigh Wood and the authority of Crosswinds Cottage Ltd to provide consent.

6.4.3. Dublin Airport Authority:

- The site is located within the Outer Airport Noise Zone and the Outer Public Safety Zone.
- Objectives DA07, DA13 and DA14 are relevant in terms of noise, land use patterns and public safety zones.
- Condition 27 of the PAs decision to grant requires that each house be provided with noise insulation to an appropriate standard and it is requested that should the Board decide to grant permission, a similar condition be attached.

7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of previous uses on the site, together with uses in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. General Compliance with National Guidelines & Standards and the Fingal County Development Plan
2. Visual & Residential Amenity issues
3. Impact on Architectural Heritage
4. Roads & Traffic
5. Open Space
6. Other Issues
7. Appropriate Assessment
8. Environmental Impact Assessment

7.1. Compliance with National Guidelines & Standards and the Fingal County Development Plan:

7.1.1. Given that the subject site is located on lands zoned for residential purposes, the principle of development at this location is considered acceptable and in compliance with the general thrust of national guidelines and strategies. The Sustainable Residential Development in Urban Areas (DoEHLG, 2009) updated the Residential Density Guidelines for Planning Authorities (1999) and continue to support the principles of higher densities on appropriate sites in towns and cities and in this regard, I consider that it is reasonable to support the development potential of the subject site in accordance with said guidelines.

- 7.1.2. The development proposes the construction of 30 residential units on a site covering approximately 1.48ha and in terms of the density recommendations of the Guidelines, this may be considered low. However, in the context of the site, it is to be noted that part of the subject site is located within Outer Public Safety Zone of Dublin Airport where density restrictions apply in the order of 60 persons per hectare, calculated on the basis of 1.5 bedspaces for 1 and 2 bedroom houses, and 3.5 bedspaces for houses with +3 bedrooms. Having regard to the above, together with the location of the site in proximity to the zoned greenbelt and the pattern of existing development in the vicinity, I have no objection to the proposed density of same in principle.
- 7.1.3. The Board will note that the subject site is zoned RS, with the objective to protect and improve residential amenity, and therefore, the principle of a residential development on the subject site can be considered acceptable in principle. The site also located within an Architectural Conservation Area. In this regard, site specific issues are required to be considered however, and I will address these issues further in this report.
- 7.1.4. Chapter 12 of the Fingal County Development Plan, 2017-2023 deals with development management standards and section 12.4 deals with residential development. In terms of the proposed houses, the Plan provides guidance in terms of qualitative standards with regard to minimum room sizes, dimensions and overall floor areas with Table 12.1 dealing with houses. I am satisfied that the development as proposed adequately complies with the cited minimum standards. Each house provides for a kitchen / dining area which is large enough to accommodate a family area with a separate lounge. All houses provide for both single and double bedrooms of sizes which comply with the plan requirements and storage is also provide.
- 7.1.5. Private open space is provided in the form of rear gardens, all but one provides for a depth of +11m. Proposed house no. 25 is located within approximately 9m of the boundary with Dunkeld, which would, if permitted, potentially affect the development potential of the Dunkeld lands which is a concern. The proposal also provides for access to the rear of the terraced houses.
- 7.1.6. In conclusion, I consider that the principle of a residential development is acceptable, given the location of the subject site within the development boundary

identified on Sheet No. 9, Malahide / Portmarnock of the Fingal County Development Plan, 2017-2023 and its current RS zoning. I have no objections in principle to the design presented and would be satisfied that the development, if permitted would offer a high amenity value to potential residents. I do have concerns in relation to a small number of issues which I will discuss further in this report.

7.2. Visual & Residential Amenity issues

7.2.1. The proposed development provides for the construction of 30 houses which will rise to three storeys, maximum heights of between 10 and 10.5m, and including a mixture of three, four and five bedrooms. The development will provide for 7 pairs of semi-detached houses and 4 terrace blocks comprising 4 units each. Open space is proposed in the vicinity of the proposed entrance and close to the road with the existing tree line, which comprises the ACA boundary, to be retained. The layout of the development therefore, sets the houses to the centre and rear of the site which will limit their visibility from the public road.

7.2.2. The houses will back onto the existing houses in Drumnigh Woods and are set to the east of Dunkeld. While the development has been designed to accord with the requirements of the Fingal County Development Plan, I would note concerns raised by third parties with regard to the potential for overlooking arising from a number of the proposed houses, as well as the loss of natural boundaries to accommodate the development.

7.2.3. In relation to the overall design of the development I have no objection and consider that the contemporary design has been adequately considered in terms of the context of the site. I would also have no objections to the proposed height and scale of the houses. I would consider that the proposed first floor terrace of house no 14, given the proximity to the rear boundary of no. 83 Drumnigh Wood, has the potential to impact on the existing residential amenity of nos. 83 and 84 Drumnigh Wood by reason of overlooking. I note condition 4 of Fingal County Councils decision to grant permission which requires revisions to the balcony so as to prevent overlooking of properties to the east.

7.2.4. I have discussed concerns regarding the restricted separation between proposed house no. 25 and the boundary with Dunkeld above. Should the Board be

minded to grant permission in this instance, I would agree with Fingal County Council that this house should be omitted in terms of residential amenity as well as access concerns. However, I would go further and omit house no 26 also, to ensure adequate access to the adjoining lands and to ensure they can be appropriately developed.

7.2.5. Further to the above, I am concerned that the proposed layout requires the extensive removal of existing natural boundaries along the southern, eastern and northern boundaries. I would also note that a number of boundaries are potentially historic boundaries, linked to the adjoining Dunkeld site. While I acknowledge the landscaping proposals for the site, I have a serious concern that if permitted as proposed, the development will result in a significant visual impact, particularly from Drumnigh Wood Estate, and will have a potential impact on the existing residential amenity of the existing properties in the adjoining estate.

7.2.6. Overall, while I have no objection in principle to the proposed development, I have reservations that the layout as proposed will significantly and seriously injure the existing visual amenities of the wider area as well as the residential amenities of adjacent properties due to the extensive removal of natural boundaries. Should the Board be minded to grant permission in this instance, I consider that houses no 14, as well as 25 and 26 should be omitted, with all houses along the southern and eastern boundary to be located in such a manner as to ensure the retention of the existing hedgerows and trees along the southern, eastern and northern boundaries. A condition requiring the retention of these boundaries should be included as a condition of planning permission should the Board be so minded to grant permission in this instance. In addition, the area which is occupied by proposed houses 13 and 14, as well as the road and turning bay in this area, should be amended to provide a detached house which backs onto Drumnigh Wood which will incorporate the existing hedgerow and trees in this area of the site, and precluding a public access area to the rear of the Drumnigh Wood properties in this area.

7.3. Impact on Architectural Heritage

7.3.1. The subject site is located within a designated Architectural Conservation Area, Old Portmarnock (Drumnigh Road). As such, objective CH32 of the Fingal County Development Plan is relevant and seeks to 'avoid the removal of structures

and distinctive elements (such as boundary treatments, street furniture, paving and landscaping) that positively contribute to the character of an Architectural Conservation Area.’ The Board will note the concerns raised by the Conservation Officer that the extensive removal of the roadside boundary along the Drumnigh Road will significantly impact on the character of the ACA.

7.3.2. The Parks Division of Fingal County Council also notes that the tree belt to be removed contains 14 mature lime and horse chestnut trees and their removal, when considered in terms of other proposals in the vicinity, would have a very negative impact. I would also note that it is the stated objective of the Fingal County Development Plan to ‘protect existing woodlands, trees and hedgerows which are of amenity or biodiversity value and / or contribute to landscape character and ensure that proper provision is made for their protection and management’, Objectives NH27 refers.

7.3.3. In terms of the above, and while I would agree with both the Conservation Officer and the Parks Division that the removal of the roadside boundary will have a significant impact on the visual amenity and character of the area, including the ACA, it is noted that the removal is necessary to ensure appropriate sight lines at the proposed access to the housing development. I also note that following the submission of the response to the further information request, a number of existing trees are to be retained towards the northern end of the boundary. Of particular note, the trees which form the boundary with the lands at Dunkeld, and which run across the proposed open space and to the rear of proposed houses 25-30, are also to be retained. These trees form the boundary to the ACA and therefore, their protection as proposed, is of particular importance.

7.3.4. While the loss of the trees along the roadside boundary is regrettable, I note the landscaping plans submitted by the applicant for this area. I also note the comments of the Parks Division of Fingal County Council and the conditions included in the decision of the Council to grant permission in this regard. Subject to compliance with conditions, I am satisfied that the removal of the roadside boundary and its replacement as proposed will be unfortunate but acceptable. I have raised concerns in terms of the construction of proposed houses 25-30 and their proximity to the tree belt no. 2, particularly the long term protection of these trees given their location to the rear of the houses. That said, I am generally satisfied, should the

Board be minded to grant permission in this instance, that the rear garden lengths of between 17m to 29m is adequate to ensure the protection of trees.

7.4. Roads & Traffic

7.4.1. In terms of the design of the proposed development, including the entrance and access to the site, it is a requirement that they be considered against the Design Manual for Urban Roads and Streets (DMURS), DoTTS, March 2013. This Manual replaces DMRB in respect of all urban roads and streets and it does not differentiate between public and private urban streets, where a 60kph speed limit or less applies. The proposed development site accesses a public road, Drumnigh Road, which has a speed limit of 50kph. Sight distances of 70m are proposed to be achieved at the entrance through the setting back of the existing roadside boundary. A 2m wide footpath is also proposed along this boundary. Drumnigh Road is a highly trafficked regional road, the R124.

7.4.2. The DMURS provides radically new design principles and standards from DMRB. The implementation of DMURS is obligatory and divergence from same requires written consent from relevant sanctioning authority (NRA, NTA or DTT&S) and is applicable in the case at hand. The Manual seeks to address street design within urban areas (i.e. cities, towns and villages). It sets out an integrated design approach. What this means is that the design must be:

- a) Influenced by the type of place in which the street is located, and
- b) Balance the needs of all users.

7.4.3. DMURS sets out a road user priority hierarchy as follows:

- 1 Pedestrians;
- 2 cyclists
- 3 public transport
- 4 car user.

The key design principles for roads include –

- Integrated streets to promote higher permeability & legibility;

- Multi-functional, placed-based, self-regulations streets for needs of all users;
- Measuring of street quality on the basis of quality of the pedestrian environment
- Plan-led, multidisciplinary approach to design.
- The importance of this design approach is dependent on site context, but also on road type - local, arterial or link. The DMURS defines a hierarchy of places based on place-context and place-value, with centres (such as town and district centres) having highest place-value. Places with higher context / place-value require:
 - Greater levels of connectivity;
 - Higher quality design solutions that highlight place;
 - Catering for and promotion of higher levels of pedestrian movement;
 - A higher level of integration between users to calm traffic and increase ease of movement for vulnerable users.

7.4.4. DMURS provides detailed standards for appropriate road widths - 2.5m to 3m per lane on local streets and a 3.25m standard for arterial and link route lanes, junction geometry - greatly restricted corner radii to slow traffic speed and improve ease of pedestrian crossing, junction design - omit left turn slips and staggered crossings etc, and requires that roads are not up designed above their speed limit. In terms of the above requirements of DMURS, the Board will note that the applicant has sought to design the development to ensure compliance with the width of the road at 6m. Pedestrian crossings and footpaths are also proposed.

7.4.5. The proposed development intends to use the existing vehicular access to the site, located in the south western corner of the site. The Transportation Planning Section of Fingal County Council has concluded that the proposed development, following the submission of the response to the further information request, is acceptable. It is also noted that the internal road is to be taken in charge by the Council subject to the omission of house no 25 and the extension of the turning head in this area of the site. The reason for this is to provide access to the adjoining lands

to the west. A number of conditions are recommended including a requirement that the footpaths be extended along both sides of the internal road. Further to the above, the Board will note that each house is provided with car parking for two cars. This accords with the requirements of the County Development Plan.

7.4.6. In terms of permeability, DMURS seeks to promote high connectivity which maximises permeability particularly for pedestrians and cyclists. In order to achieve such networks, DMURS seeks to limit the use of dendritic networks and cul-de-sacs that provide no through access. In terms of the proposed development, the Board will note that there is no opportunity for potential expansion of the estate other than towards Dunkeld, and permeability for pedestrians and cyclists is also excluded from the existing adjacent Drumnigh Wood estate. I note the requirements of the Transportation Planning Section of the Council with regard to providing a potential connection to the lands to the west (Dunkeld) which would address to some extent, this issue. Should the Board consider it necessary, I would also consider that there is potential to provide for pedestrian and cyclist access through the site to the adjacent Drumnigh Wood estate along the northern boundary of the site. However, as there is no access from Drumnigh Wood to the Portmarnock Station located to the east, I would not see the purpose for such a connection.

7.4.7. In terms of general roads and traffic issues, and subject to compliance with conditions, I am generally satisfied, based on the information submitted, that the requirements of the Design Manual for Urban Roads and Streets, have and can be met. That said, I also note the concerns raised by third parties regarding the potential impact of the proposed development and the traffic generated by same on the local road network. The development proposes to provide a footpath along its boundary which will connect into the existing footpath to the south which will improve facilities for pedestrians. The land is zoned for development and as such, I am satisfied that the proposals is acceptable.

7.5. Public Open Space

7.5.1. The Board will note that the first party has submitted a landscaping plan for the site. The open space provision is indicated at covering 3,104m², amounting to 21% of the total site area. Section 12.7 of the FCC Development Plan deals with open space and Objective DMS57 requires 'a minimum public open space provision

of 2.5 hectares per 1000 population. For the purposes of this calculation, public open space requirements are to be based on residential units with an agreed occupancy rate of 3.5 persons in the case of dwellings with three or more bedrooms and 1.5 persons in the case of dwellings with two or fewer bedrooms.’ In this regard, the proposed development has a requirement to provide an area of 2,600m².

7.5.2. I would note the comments of the Parks Division in relation to the figures presented by the applicant. It is submitted that the area of open space proposed includes other features such as roads, footpaths etc, which is unacceptable. I would also note the requirements of the Development Plan that areas which should not be counted in the Open Space calculation include:

- Environmental Open Space, i.e. incidental or narrow pieces of open space used for the preservation of trees and or as a visual relief and screen planting e.g. along roads.
- Green corridors
- Areas of open space under high voltage electricity lines.

In this regard, I would concur with the Planning Authority that the open space provided is inadequate in terms of the Plan requirements. It might also be considered that the location of the open space, and in the efforts to protect the tree lines which will transect it, it represents an area which is not adequately overlooked and has potential to create a hidden area to the west of the site. However, given that the open space area is located within the Outer Public Safety Zone of Dublin Airport, I am generally satisfied that the open space use is the most appropriate use for this area of the site.

7.5.3. In the context of the above, together with the roads requirements and my concerns in relation to the proposed extensive removal of existing boundaries along the southern, eastern and northern boundaries, it may be appropriate to consider omitting houses 25-30 from the proposed development, which would potentially achieve two targets being:

1. the provision of improved access to the development lands to the west of the site at Dunkeld, and

2. in the comprehensive development of the site and the lands at Dunkeld, provide adequate levels of open space to service the overall development.

In omitting the above houses, the rear gardens of the proposed houses along the eastern boundary could be increased to retain the existing natural boundaries and ensure the protection of the tree belt No. 2 from future residents seeking the removal of trees to improve light into rear gardens. However, in reducing the number of houses within the development, I would consider that the density would fall below an appropriate level, given that the site is zoned and serviced. Alternatively, a development contribution can be conditioned, in accordance with condition 29 of the Planning Authority's decision to grant permission for the development.

7.6. Other Issues

7.6.1. Water Services

With regard to water services for the proposed development, the Board will note that both Irish Water and FCC Water Services section indicated no objection to the proposed development subject to conditions. In particular, it is noted that the proposed development is to connect to the existing foul sewerage system in Drumnigh Wood. Irish Water have recommended that a condition of permission be included requiring that the permitted works under F16A/0607 be implemented in full prior to occupation of any house. I consider this is a reasonable request.

I also note the submission in relation to dealing with surface water and agree that a condition should be included requiring that foul and surface water networks are separate throughout the site and all works shall comply with the Greater Dublin Regional Code of Practice for Drainage Works. In relation to the potential for flooding I would note that the site is not located within a flood risk zone.

7.6.2. Red line boundary:

The submitted folio map reflects the site boundary as submitted.

7.6.3. Relocation of piers and gate to Dunkeld:

I consider that this is a civil matter between the two parties.

7.7. **Appropriate Assessment**

The site is not located within any designated site. The closest European Site is the Baldoyle Bay SAC, Site Code 000199 and SPA, Site Code 004016, located approximately 700m to the east.

Having regard to the AA submitted in support of the proposed development, the location of the subject site immediately adjacent to an established residential area, together with the nature and scale of the proposed development on zoned lands, I am satisfied that there is no potential for impact on any Natura 2000 site, warranting AA.

7.8. **Environmental Impact Assessment**

Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 **Recommendation**

8.1. I recommend that planning permission be permitted for the proposed residential development for the following stated reasons and considerations, and subject to the stated conditions.

REASONS AND CONSIDERATIONS

Having regard to the provisions of the current Fingal County Development Plan, 2017-2023, the zoning objective afforded to the site, the existing established residential use, the pattern of existing and permitted development in the vicinity and having regard to the information submitted as part of the planning application together with the information submitted in the appeal, I am satisfied that, subject to compliance with the following conditions, the proposed development generally accords with the policy requirements of the relevant plans as it relates to residential developments, would be acceptable in terms of servicing, traffic safety and would not injure the existing visual and residential amenities of properties in the vicinity of the site. It is further considered that the development would not impact upon the

adjacent Architectural Conservation Area of Old Portmarnock (Drumnigh Wood). It is concluded that the development, would be acceptable in terms of the proper planning and sustainable development of the area.

SECOND SCHEDULE

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, submitted the 11th day of September 2017, as amended by further information submitted to the Planning Authority on the 28th day of March, 2018, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) Proposed houses numbered 25 and 26 shall be omitted and the area associated with same shall be incorporated into a new road layout to accommodate a vehicular link to development lands to the west.
 - (b) Proposed house number 14 shall be omitted, with house no 13 becoming a detached house. The area associated with same shall be incorporated into the site area for houses nos. 13 and 15 as proposed. The revision to this area of the site shall preclude a public access area to the rear of existing properties in Drumnigh Wood.
 - (c) The existing site boundaries along the southern, eastern and northern boundary shall be retained.

Permission is granted for 27 houses in total

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

3. No development shall commence on the site until such time as the following have been agreed and complied with:
 - (a) Requirements of Fingal County Councils Transport Planning Section in relation to the roads and footpath, public lighting, open spaces and water services to be taken in charge;
 - (b) Requirements of Fingal County Councils Parks and Green Infrastructure Department in relation to the protection of trees, proposed replacement trees, tree and landscape establishment schedule, replacement roadside hedge, planting requirements and maintenance programme;
 - (c) Requirements of Fingal County Councils Water Services Planning Section.

Full details shall be agreed with the Planning Authority prior to commencement of development and all works shall be completed by the applicant, to the satisfaction of the Planning Authority prior to the occupation of any house within the proposed development.

Reason: In the interests of roads and traffic safety, protection of the natural environment, public health and the proper planning and sustainable development of the area.

4. No house shall be occupied until such time as:
 - (a) The front boundary of the site shall be set back, with railing and landscaping completed and footpaths installed;
 - (b) The works to the Sewerage System, permitted under F16A/0607, have been fully implemented;

- (c) Public lighting scheme has been agreed with the Fingal County Council.

Reason: In the interests of public safety, public health and the proper planning and sustainable development of the area.

5. The open spaces shall be developed for, and devoted to public use. They shall be kept free of any development and shall not be incorporated into house plots. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer.

Reason: In order to ensure the development of the public open space areas, and their continued use for this purpose.

6. The construction of the development shall be managed in accordance with a Construction and Demolition Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) Location of areas for construction site offices and staff facilities;
- (c) Details of site security fencing and hoardings;
- (d) Details of on-site car parking facilities for site workers during the course of construction;
- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;

- (f) Measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

7. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, dark brown or dark grey in colour only.

Reason: In the interest of visual amenity.

8. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision

modifying or replacing them, shall not be carried out within the curtilage of any proposed dwelling house without a prior grant of planning permission.

Reason: In the interest of residential amenity and in order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed dwellings.

9. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

10. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
 - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

11. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94 (Part V) of the Planning and Development Act 2000, as amended by the Urban Regeneration and Housing Act, 2015, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended.

12. Prior to commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the provision and satisfactory completion of roads, sewers, watermains, drains, car parks, open spaces and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of any part of the development. The bond shall include provision for the protection of trees during the course of development. The security to be lodged shall be as follows -

- (a) an approved insurance company bond in an amount to be agreed with the Planning Authority prior to the commencement of any development on site

- (b) a cash sum, amount to be agreed with the Planning Authority prior to the commencement of any development on site, to be applied by the planning authority at its absolute discretion if such services are not provided to its satisfaction, or
- (c) such other security as may be accepted in writing by the planning authority.

Reason: To ensure the satisfactory completion of the development.

13. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall include a sum to be paid in lieu of open space provision towards the cost of amenity works in the area based on a shortfall in the proposed development.

The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

A. Considine
Planning Inspector
11th December, 2018